IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION LODGING NO.1301 OF 2006

Bharatratna Dr. Babasaheb
Ambedkar Nagar Vikas Co-op.
Housing Society Ltd. (Proposed) & Ors.Petitioners

Vs.

Slum Rehabilitation Authority & Ors..Respondents

Mr. Shailesh Shah with Mr. Carlton Gracious, for the Petitioners

Mr. G.D. Utangale, for respondent No.1.

Mr. Janak Dwarkadas, Senior Counsel with Mr. Y.M. Choudhari, for Respondent NO.4.

Mrs. A.K. Savla, for Respondent No.6.

CORAM: **F.I. REBELLO &**
MRS.V.K.TAHILRAMANI, JJ.
DATE: 15TH JUNE,2006

P.C.

. The Petitioners had earlier approached this Court by Writ Petition No.558 of 2006. We had noted that Respondent Nos. 2 and 3 herein who were also respondents in the earlier petition claimed membership of 597 eligible hutment dwellers out of 792 who were eligible. We had noted that this constitutes 75.37% of the total eligible hutment dwellers. The main thrust of the petition there was that those who had earlier become members of the respondent No.2 had backed out and had become members of the Petitioner No.1 proposed society. Considering the fact that the respondent Nos. 2 and 3 claimed membership of more than 70% we had refused to invoke our extra ordinary jurisdiction. We had, however,

noted that the grievance in that petition was that the names of ineligible slum dwellers had been approved and such persons ought not to have been held to be eligible. Considering that we had issued certain directions at the time of disposal of that Writ Petition on 8th March, 2006. The Letter of Intent was given in favour of Respondent No.2 with Respondent N.5 as developer.

2. This is the second round of litigation commenced by the petitioners herein. They had filed an objection before the Assistant Municipal Commissioner raising various objections. The principal objections as raised was that there have been fraudulent and wrong allotments. It has been pointed out that in the same family, various hutments have been allotted. Similarly,. there have been fraudulent allotments to people who were ineligible numbering 136 .From the chart submitted to the Court it is sought to be submitted that bogus and ineligible names of hutment dwellers are included and they ought to be cancelled. That Respondent No.2 would not have 70% required for being granted L.O.I. if these illegal allotments are cancelled The S.R.A. by a speaking order disposed of the objections as raised by the petitioners.

3. It is contention on behalf of the respondents that in so far as the petitioners are concerned, it is their contention that there are about 863 slum

dwellers out of which 450 are members. If the respondent No.3's contention is to be accepted out of 860 even if 136 are held to be ineligible atleast there are 714 members and as such respondent No.3 has more members than the petitioners herein. The various objections raised by the petitioners it has been pointed out have been dealt with by the Competent Authority by his order dated 4th April, 2005. As an illustration to one of the objections, it is pointed out that though in the voters list only one hut number was shown as eligible, but the identity number of the huts are different as per 1976 census. In case of some names, they were not included in 1995 voters list in terms of the certificate (Census) letter of Collector and as per the evidence of hut possessor and as per Government policy, 71 hut holders were given new identify cards. In otherwords whatever objections were raised on behalf of the petitioners have been dealt with.

. Under these circumstances merely because some other society seeks to come into the picture and another builder seeks to develop, should this Court exercise its extra ordinary jurisdiction. As we have noted in Writ Petition No.558 of 2006, what we have to consider is the rehabilitation of the slum dwellers. Their interest must prevail over all other interest. If the members of the petitioner proposed society have their name included in the Annexure II and are held to be eligible respondent Nos. 2 and 5

are bound to give to such eligible members of petitioner their entitlement. In other words those who were eligible have to be given the benefit and that cannot be denied to them. Once that be the case, in our opinion this would not be a fit case where this Court ought to exercise its extra ordinary jurisdiction and/or interfere with the L.O.I. granted in favour of the respondent No.2.

4. For the aforesaid reasons we find no merit in this petition which is accordingly dismissed.

(**F.I. REBELLO, J)**

(**MRS.V.K.TAHILRAMANI, J).**